

**ASSEMBLY BILL**

**No. 1389**

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**Introduced by Assembly Member Oropeza**

February 22, 2005

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An act to amend Section 13002 of the Health and Safety Code, and to amend Section 374.4 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 1389, as introduced, Oropeza. Littering: cigarette butts.

Existing law provides that it is a crime punishable by a fine of not less than \$100 nor more than \$1,000 to discard, drop, or scatter small quantities of waste matter in or upon any public or private property in a place other than a container for the proper disposal thereof. Existing law also provides that it is a crime punishable by that fine to throw any cigarette, match, or glowing or flaming substance, or any substance or thing that may cause a fire upon any highway, sidewalk, or upon any public or private property. Existing law also provides that a second conviction or either of these offenses is punishable by a fine of not less than \$500 nor more than \$1,000, and by a fine of not less than \$750 nor more than \$1,000 upon a third or subsequent conviction.

This bill would increase the fine for both of these offenses to not less than \$750 nor more than \$1,500, for a first offense, not less than \$1000 nor more than \$2,000, for a second offense, and not less than \$2,000 nor more than \$3,000 upon a third or subsequent conviction.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 13002 of the Health and Safety Code is amended to read:

13002. (a) Every person is guilty of a misdemeanor who throws or discharges any lighted or nonlighted cigarette, cigar, match, or any flaming or glowing substance, or any substance or thing ~~which~~ *that* may cause a fire upon any highway, including any portion of the right-of-way of any highway, upon any sidewalk, or upon any public or private property. This subdivision does not restrict a private owner in the use of his or her own private property, unless the placing, depositing, or dumping of the waste matter on the property creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department, local fire department or fire district, or the Department of Forestry and Fire Protection, in which case this section applies.

(b) Every person convicted of a violation of this section shall be punished by a mandatory fine of not less than ~~one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)~~ *seven hundred fifty dollars (\$750) nor more than one thousand five hundred dollars (\$1,500)* upon a first conviction, by a mandatory fine of not less than ~~five hundred dollars (\$500) nor more than one thousand dollars (\$1,000)~~ *one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000)* upon a second conviction, and by a mandatory fine of not less than ~~seven hundred fifty dollars (\$750) nor more than one thousand dollars (\$1,000)~~ *two thousand dollars (\$2,000) nor more than three thousand dollars (\$3,000)* upon a third or subsequent conviction.

The court may, in addition to the fine imposed upon a conviction, require as a condition of probation, in addition to any other condition, that any person convicted of a violation of this section pick up litter at a time and place within the jurisdiction of the court for not less than eight hours.

SEC. 2. Section 374.4 of the Penal Code is amended to read:

374.4. (a) It is unlawful to litter or cause to be littered in or upon any public or private property. Any person, firm, or corporation violating this section is guilty of an infraction.

(b) This section does not restrict a private owner in the use of his or her own property, unless the littering of waste matter on

1 the property creates a public health and safety hazard, a public  
2 nuisance, or a fire hazard, as determined by a local health  
3 department, local fire department or district providing fire  
4 protection services, or the Department of Forestry and Fire  
5 Protection, in which case this section applies.

6 (c) As used in this section, "litter" means the discarding,  
7 dropping, or scattering of small quantities of waste matter  
8 ordinarily carried on or about the person, including, but not  
9 limited to, beverage containers and closures, packaging,  
10 wrappers, wastepaper, newspapers, and magazines, in a place  
11 other than a place or container for the proper disposal thereof,  
12 and including waste matter which escapes or is allowed to escape  
13 from a container, receptacle, or package.

14 (d) A person, firm, or corporation convicted of a violation of  
15 this section shall be punished by a mandatory fine of not less  
16 than ~~one hundred dollars (\$100) nor more than one thousand~~  
17 ~~dollars (\$1,000)~~ *seven hundred fifty dollars (\$750) nor more than*  
18 *one thousand five hundred dollars (\$1,500)* upon a first  
19 conviction, by a mandatory fine of not less than ~~five hundred~~  
20 ~~dollars (\$500) nor more than one thousand dollars (\$1,000)~~ *one*  
21 *thousand dollars (\$1,000) nor more than two thousand dollars*  
22 *(\$2,000)* upon a second conviction, and by a mandatory fine of  
23 not less than ~~seven hundred fifty dollars (\$750) nor more than~~  
24 ~~one thousand dollars (\$1,000)~~ *two thousand dollars (\$2,000) nor*  
25 *more than three thousand dollars (\$3,000)* upon a third or  
26 subsequent conviction.

27 (e) The court may, in addition to the fine imposed upon a  
28 conviction, require as a condition of probation, in addition to any  
29 other condition of probation, that any person convicted of a  
30 violation of this section pick up litter at a time and place within  
31 the jurisdiction of the court for not less than eight hours.